

1 our evaluation. If it's the 16th or the 12th, those who
2 understand this matter will decide. I'm not a lawyer.

3 Q In any event, you never did write to DRC listing
4 "These are the things that DRC has done wrong". Is that
5 right?

6 A I don't recall, Counsel.

7 Q Let's go to page 2 of Exhibit 4. And your letter
8 also states "La responsabilidad de pago por los servicios
9 rendidos por su compañía al Departamento de Educación se
10 limitará a los servicios y materiales provistos al 22 de
11 febrero de 2002 siempre y cuando estos pagos estén
12 identificados de acuerdo con los términos del Contrato." Is
13 that correct?

14 A Correct.

15 Q Is there any particular reason why the Department
16 of Education has not paid DRC for the services that it
17 rendered through February 22nd, 2002?

18 A I don't know.

19 Q In fact, that's what you promise in your letter, is
20 that not right?

21 A According to the letter, the responsibility of
22 paying for the services rendered by your company to the
23 Department of Education were preliminary to the services and
24 material provided as of February 22nd, 2002. Of course, we
25 would have to evaluate what was done, what was submitted, was

1 it with invoice, and then it has to be validated, and see
2 wether payment was made or not, what happened with it.

3 Q And that's what you agreed to do?

4 A That is what it's stated here, correct.

5 Q And if you were told, if people that worked for you
6 would tell you that DRC has not been paid for the services it
7 rendered through February 22nd, 2002, would you be, within
8 your authority, willing to order that those payments be made
9 at this time?

10 A Again, I am unaware of what the current situation
11 is. But there was an agreement there, and obviously I can
12 not fail to comply with an agreement.

13 However, I would like to know the reasons for
14 whatever decision was taken, and obviously I do not handle
15 that. What I can tell you is that there will be compliance
16 with something that is evidenced and that is a result of a
17 contract according to the law and the corresponding
18 provisions.

19 Q Let me also ask you this question so that the
20 record would be complete. Here is a letter dated December
21 11th, 2001 from the President of DRC sent to you. Do you
22 recall receiving that letter. I'm going to mark that as
23 Exhibit number 5.

24 (AT WHICH TIME DEPOSITION EXHIBIT NUMBER 5 IS MARKED)
25 BY MR. CAMILO SALAS:

1 A (DEPONENT) No, I don't remember.

2 MR. A.J. BENNAZAR: The December 11th, 2001?

3 MR. CAMILO SALAS: Yes.

4 BY MR. CAMILO SALAS:

5 Q Now, let me show you another letter which is dated
6 February 21, 2002, which is in response to your letter of
7 February 15th, 2002. I'm going to mark this as Exhibit number
8 6. Do you ever recall receiving that letter?

9 (AT WHICH TIME DEPOSITION EXHIBIT NUMBER 5 IS MARKED)

10 BY MR. CAMILO SALAS:

11 A (DEPONENT) Obviously, I don't have specific
12 recollection of this.

13 Q Let me show you another letter sent to you from
14 DRC, dated February 26th, 2002, which I will identify as
15 Exhibit number 7. Do you recall receiving that letter?

16 (AT WHICH TIME DEPOSITION EXHIBIT NUMBER 7 IS MARKED)

17 BY MR. CAMILO SALAS:

18 A (DEPONENT) I don't have recollection. I only want
19 to state for the record that every day I receive not less
20 than 100 letters per day, most of them by hand, confidential,
21 personal, and that I have a staff that goes over these
22 letters and it is impossible for me to get all the details of
23 all the letters. Obviously, as time goes by...

24 Q So, those letters would have been maybe sent to the
25 group of people that were dealing with this situation?

1 A That's right.

2 Q Then again, you want to see if you can help us find
3 out who the people were?

4 A Yes, sir.

5 Q How often do you have contact with Governor
6 Calderón, at least back during that period of time of January
7 2002?

8 A In meetings of the Education, Culture and
9 Recreation Council. In an extraordinary meeting that was
10 called. That was basically the calendar of meetings.

11 Q Did you receive any orders from Governor Calderón,
12 from César Miranda, from anybody else in Governor Calderón's
13 administration ordering you to cancel the contracts that DRC
14 had with the Department of Education?

15 A No.

16 Q Were you aware of several arrests that were made by
17 the federal authorities involving certain people who
18 previously worked for the Department of Education during the
19 prior administration?

20 A Yes.

21 Q And how did you become aware of that?

22 A By the News.

23 Q And you became aware of that, do you know when?

24 A No.

25 Q When that came in the News, did Governor Calderón

1 not order the cancellation of various contracts that were
2 allegedly improperly obtained or that were questioned by the
3 federal authorities?

4 A She made some public manifestations evidently
5 subsequent to decisions that in my case dealt with DRC.

6 Q Your letter is January 23rd, 2002, right? That's
7 when you notified DRC? That's the first time that you was
8 contacted?

9 A Correct.

10 Q Governor Calderón had a Press conference on the
11 next day, January 24th, 2002, did she not?

12 A I don't recall when she had it.

13 Q I have the transcript here, it says 24th, 2002. Do
14 you agree with me?

15 A It must have been the 24th, undoubtedly.

16 Q Let me read in part, the section that deals with
17 cancellation of contracts.

18 "Número 1: Como ustedes saben, la semana pasada al
19 advenir un conocimiento de los actos ilegales en el
20 Departamento de Educación sobre los cuales la Secretaria de
21 Justicia hizo acusaciones públicas, ordené la cancelación
22 inmediata de los contratos en cuestión en dicho
23 departamento."

24 "Número 2: La política de mi administración prohíbe
25 la contratación de personas naturales o jurídicas que hayan

1 estado implicadas en actos de corrupción."

2 "Número 3: Consistente con esa política pública, he
3 ordenado también el día de ayer", que viene a ser el 23 de
4 enero, "la cancelación de los contratos de otras firmas que
5 salieron a relucir con motivos de los arrestos de la Fiscalía
6 Federal".

7 "Número 4: He ordenado igualmente que se lleve a
8 cabo una investigación en todas las agencias de Gobierno
9 sobre cualquier otra contratación relativa a personas
10 jurídicas o naturales señaladas en estas investigaciones."

11 Let me ask you some questions about that. What she
12 is saying here in paragraph 3 is that yesterday, day before,
13 she ordered the cancellation of contracts with other firms
14 whose names were mentioned because of those arrests by the
15 federal authorities, true?

16 A Uh-huh.

17 Q True?

18 A That's what it says there.

19 Q And is it true that DRC's name had been mentioned
20 during those news?

21 A I don't know it for a fact.

22 Q Which are the contracts that Governor Calderón
23 ordered cancelled?

24 A I don't remember details. I can tell you that I
25 have been here two years and nine months in my job, and that

1 three weeks after I started here, we investigated and we have
2 investigated still since then, every act of irregularity
3 because just as it is extremely well known and publicly
4 known, this Department incurred in extremely numerous
5 irregularities.

6 So, as a result of our evaluation, we have
7 cancelled contracts, we have taken legal action. And we have
8 referred to Justice everything that's irregular. That's
9 independent from the public manifestations to the Governor.
10 As a matter of fact, the Department of Education is the first
11 department that initiates investigations.

12 Q Governor Calderón says here in her Press conference
13 that she ordered the immediate cancellation of those
14 contracts in question related to the Department of Education.
15 Now, did she do that? Did she order the cancellation of
16 contracts that some companies had with the Department of
17 Education?

18 A That could have implications with justice, yes.
19 That was public, that was an order.

20 Q Was that order in writing or was it verbal? How
21 was it communicated to you?

22 A I believe it was an order. I do not know if it was
23 in writing, but there was a public statement about that.

24 Q Well, she made the public statement, but I have to
25 believe that she issued some kind of memorandum or letter, or

1 something to the staff or to people like yourself who are
2 Head of the Department, instructing you to cancel the
3 contracts with those companies?

4 A But there was a public statement followed by the
5 Department of Education and other departments, but I do not
6 have recollection whether it was a direct order or an
7 executive order, or the form of the order, or the format of
8 that order.

9 Q And later, she states here in paragraph 3 that the
10 prior date on January 23rd, she then ordered the cancellation
11 of contracts of other people whose name had come to be
12 mentioned.

13 My question with respect to that is, was there a
14 separate order, or how was that communicated to you?

15 A I don't have recollection about that.

16 Q She did order that, didn't she?

17 A If a public statement was given that contracts be
18 cancelled, that had an incidence of any violation that was
19 being investigated by Justice.

20 Q Okay. And just to be sure. As I understand this,
21 there were two orders. One, one week before, and one, the
22 day before---

23 A I remember the public one, Counsel.

24 Q Let me read paragraph one of Section C of the Press
25 conference. She says "Como ustedes saben, la semana pasada

1 al advenir conocimiento de los actos ilegales en el
2 Departamento de Educación sobre los cuales la Secretaria de
3 Justicia hizo acusaciones públicas, ordené la cancelación
4 inmediata de los contratos en cuestión en dicho
5 departamento".

6 That indicates to me that one week before the Press
7 conference, she issued an order to cancel some contracts.

8 A Uh-huh.

9 Q Yes?

10 A It must have happened, undoubtedly.

11 Q And then in paragraph 3, she says "Consistente con
12 esa política pública, he ordenado también en el día de ayer,
13 la cancelación de los contratos de otras firmas que salieron
14 a relucir con motivo de los arrestos de la Fiscalía Federal."
15 Which means to me that one day before the Press conference,
16 there was another order issued by her, true?

17 A Uh-huh.

18 Q True?

19 A Uh-huh.

20 Q Yes?

21 A It must have been.

22 Q So, as I read this statement here, there were two
23 orders. One, in the week before January 24th, and another
24 order the day before January 24th. Am I correct on that?

25 A According to that.

1 Q Now, and those orders would have been given to you?
2 Is that not true?

3 A There must have been a public expression, and then
4 at some time, a convocation, either a written order for that
5 to happen.

6 Q When you say a public expression, you mean somebody
7 telling you verbally to---

8 A Correct.

9 Q ---to pre-cancel those contracts?

10 A Or her statement during the Press conference.

11 Q Followed by some type of written order or
12 memorandum, or letter or something.

13 A Or communication.

14 Q Or communication. So we can say that somewhere,
15 somebody has two communications for the two orders that she
16 gave?

17 A There should be two communications.

18 Q Where can I look?

19 MR. A.J. BENNAZAR: Two statements.

20 BY MR. CAMILO SALAS:

21 A (DEPONENT) Two statements of communications, but
22 not necessarily a written communication.

23 Q Alright.

24 A To make it clear.

25 Q Is it not, the way that is done, that somebody

1 would issue a written order saying "Secretary of Education,
2 we request that you cancel the contracts, ta da, da da da?

3 A It could be that or it could be a statement, of a
4 wish that that be done. This is very fluid, we are talking
5 about the first year.

6 Q I suppose that that would have been something, a
7 letter or written communication, that you would have read,
8 even in your busy schedule, and even in your---

9 A Undoubtedly.

10 Q ---thousands of letters that you get every day,
11 true?

12 A Undoubtedly.

13 Q Is there a particular file where those orders would
14 have been filed?

15 A If an executive order existed, obviously.

16 Q Where are those orders today?

17 A In what file?

18 Q Yes, which file.

19 A They must be here at the office of the Secretary.

20 Q Who has those files?

21 A My secretary or ---

22 Q Your secretary?

23 A ---the Chief of Staff who is Dr. Carmen Collazo.

24 She's not Chief of Staff in reality, but she is Under

25 Secretary, Associated Secretary. She is the one who handles

1 the operation, the day by day.

2 Q And your Secretary, your prior Secretary is?

3 A Sonia Noemí Rivera.

4 Q So, one of these two persons or both of them would
5 have those orders from Governor Calderón?

6 A If they exist, of course.

7 Q Well, is this the type of orders that are usually
8 kept?

9 A Yes, we are talking of executive orders.

10 Q Is there a file for executive orders, or do you
11 not?

12 A I haven't seen it, but it must exist, the place
13 must exist for those.

14 Q Would you be kind enough to ask these two members
15 of your staff, or any other person who may have these orders,
16 to look for them,---

17 A Of course.

18 Q --- make copies, give them to Mr. Bennazar so he
19 can give us copies?

20 A Of course.

21 MR. A.J. BENNAZAR: To the extent that we can
22 accelerate it for... Thanks, to the extent that an executive
23 order may exist, we would gladly produce it.

24 MR. CAMILO SALAS: I would expect that those orders
25 exist.

1 BY MR. CAMILO SALAS:

2 A (DEPONENT) If they exist, I will gladly do so,
3 Counsel.

4 Q Now, she also ordered, and this is paragraph 4,
5 "He ordenado igualmente que se lleve a cabo una investigación
6 en todas las agencias de gobierno sobre cualquier otra
7 contratación relativa a personas jurídicas o naturales
8 señaladas en estas investigaciones".

9 So, my question is, did she order also an
10 investigation of, to be conducted by your agency, of all
11 these other people or contracts that you mentioned during the
12 investigations of the Federal government?

13 A In our case, Counsel, from January of 2001 on, we
14 have been carrying out investigations that have been referred
15 to the local and federal courts.

16 And thanks to those investigations, we have been
17 able to recuperate the respectability from the Federal
18 Department of Education, which was almost lost, and which
19 almost resulted in the freezing of federal funds.

20 So, executive or administrative orders of the
21 Governor what do is confirm something that I had been doing
22 before due to my ministerial responsibility.

23 Q So, before January 23rd of 2002, had you already
24 ordered an investigation of DRC?

25 A No, of DRC's, this is DRC. Of DRC, this is what we

1 have on DRC. In view of some findings, we have pinpointed
2 our deficiencies. It's not a corporate investigation.

3 In our opinion, faced with a non compliance and
4 this, and not being, we audit the processes and on that basis
5 we conclude the decision. That's different to say.

6 Where there was a statement or an accusation of
7 doubtless responsibility, and started an investigation, as it
8 was done with other corporations, this was different.

9 Q So you never started an investigation with DRC
10 without a criminal thinking or anything like that?

11 A I don't remember that kind of thinking. This was
12 totally different. This is operational.

13 Q This is operational.

14 A The way I see it.

15 MR. A.J. BENNAZAR: May the record reflect when the
16 witness says "Aquí es operacional", he made a gesture with
17 his hands over the documents that brother Counsel showed him
18 as relative to DRC's performance or like thereof, in the E-
19 Rate Program.

20 BY MR. CAMILO SALAS:

21 Q Do you know who Pedro Goyco Amador is?

22 A Yes.

23 Q Did you have any contacts with him concerning DRC?

24 A Not that I recall.

25 Q Here is a letter dated November 4, 2002, from Pedro

1 Goyco Amador, Puerto Rico Chief Prosecutor, addressed to Mr.
2 George McDonald. And a carbon copy of that letter is sent to
3 you and to your Counsel, Mr. Bennazar.

4 Have you any idea why you were a carbon copy with
5 that letter?

6 A I guess as part of the evaluations being performed
7 by him at a given time.

8 Q This is a criminal investigation that he was
9 conducting?

10 A I don't know that.

11 Q Have you ever spoken with this gentleman about
12 DRC?

13 A As I said, I repeat, that I recall, with
14 Prosecutor, Pedro Gerónimo Goyco, no, that I recall.

15 Q Did you and or your office made a request to Pedro
16 Gerónimo Goyco to investigate DRC?

17 A I don't know wether it was done or not at the
18 office.

19 Q Who would be the person who would have made that
20 request if it was done by your office?

21 A People who evaluated the whole process of
22 operations during the prior administration. Those are
23 auditors, the Legal Division that could have had an ongoing
24 investigation.

25 Q Who is the head of the Legal Division?

1 A Dr. Irma Alicia Rodríguez and Dr. Carmen Collazo,
2 the Executive Aide.

3 Q Dozens of investigations are carried out here where
4 Justice, the Federal Bureau of Investigations, the Controller
5 intervenes.

6 And obviously, I am not aware of all that is being
7 processed, that would be under the knowledge of the Executive
8 Aide, and they have been taking place and they will continue
9 taking place.

10 The case is such that every month we meet with the
11 Controller to tally the processes, make an inventory of the
12 processes.

13 Q So, are you in a position to tell me if this
14 investigation of DRC by Pedro Goyco is the result of the
15 order given by Governor Calderón on January 24, 2002, asking
16 for an investigation?

17 A It could be.

18 Q Now, let me ask you another question here. In this
19 letter to Mr. McDonald from Mr. Goyco, there is a note here
20 that says, "Al expediente de correspondencia general de E-
21 Rate".

22 MR. A.J. BENNAZAR: No, that was me, that's my
23 handwriting. When I got copies in my office, I wrote that.
24 That's my handwriting, and these are my initials, okay.

25 MR. CAMILO SALAS: That's what I was going to find

1 out.

2 BY MR. CAMILO SALAS:

3 Q In fact, the letter from Mr. Goyco says, "As you
4 are aware, the Puerto Rico Department of Education has
5 requested that we investigate possible improper or illegal
6 use of funds by the above referenced entity, the DRC
7 Corporation during the years 1998, 1999, and 2000, when it
8 provided goods and services to the PR DOE to connect public
9 schools in Puerto Rico to the Internet as part of the project
10 funded with the sources provided by the FCC, popularly known
11 as E-Rate funds".

12 So, in fact, the Department of Education did
13 request Mr. Goyco to investigate DRC Corporation, true?

14 A I didn't do it. It must have been someone under
15 those investigators that are in charge of the protocol who
16 has this.

17 Q Who has the files where this request would be
18 located? The request by the Department of Education to Mr.
19 Goyco to investigate DRC Corporation?

20 A The Legal Division may have it. The Internal
21 Auditing Office.

22 Q And who is the head of that office?

23 A Lynnette Molina.

24 Q Oh, Ms. Lynnette Molina? We will be seeing her
25 tomorrow?

1 MR. A.J. BENNAZAR: Uh-huh.

2 BY MR. CAMILO SALAS:

3 Q Here is a letter dated October 31, 2002, where you
4 were writing to Pedro Goyco providing him information about
5 DRC, true?

6 MR. A.J. BENNAZAR: If that's your question, I
7 object, it misrepresents the text of the letter. It's not
8 providing information on DRC.

9 MR. CAMILO SALAS: It's about the E-Rate funds.

10 MR. A.J. BENNAZAR: It's about the E-Rate Program,
11 and directing Mr. Goyco to USAC because payments were made
12 directly by USAC to the provider and not to the Department.
13 So it is not providing information on DRC.

14 BY MR. CAMILO SALAS:

15 Q And here is a letter dated October 30, 2002,
16 addressed to you from Pedro Goyco, making a reference to a
17 letter of October 3, 2002, and certain documents that were
18 transmitted along with that letter.

19 A Where is that, Counsel?

20 Q It's three pages from the end.

21 A I don't remember.

22 Q And then finally, we have your letter of October
23 3, 2002, that you wrote to Fiscal Goyco, true?

24 A I don't remember that. Of course, I must clarify
25 that all this has to do with E-Rate, when we ourselves would

1 go and give explanation of where the project was standing.

2 As a matter of fact, either meeting with the most
3 important executive of USAC and FCC.

4 Q We'll be talking about the FCC meetings and all
5 that stuff later. Right now I want to talk about Fiscal
6 Pedro Goyco, and an investigation that he was doing.

7 MR. A.J. BENNAZAR: It is 6:30 p.m., I don't know
8 how much longer you would want to go.

9 MR. CAMILO SALAS: Well, it's going to take, I would
10 say another hour or two to finish this deposition. And we'll
11 be here tomorrow for those other depositions, or our office.

12 I'd be delighted to accommodate you whenever you
13 find an hour or two tomorrow.

14 We will continue with the Secretary's deposition
15 tomorrow afternoon, about 2:00 or 3:00 we will move back to
16 his offices from our offices where we will be taking the
17 deposition of Lynnette Molina. Thank you.

18 (AT WHICH TIME THE IMMEDIATE PROCEEDINGS HAVE CONCLUDED)
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DEPONENT'S CERTIFICATE

I, Cesar Rey Hernández , hereby () accept () do not accept as correct the transcript of my deposition as prepared and transcribed by Compugrafía, Inc., taken in the date and time hereby indicated in the case of caption.

Cesar Rey Hernández

Please use the Errata Sheet at the end of the transcript for corrections related to this deposition.

REPORTER'S CERTIFICATE

I, María L. Malavé, E.R. Reporter, member of
Compugrafía, Inc., hereby certify:

That the foregoing transcript is a faithful
representation of the notes and recording taken by me in the
hereby indicated case of caption.

I also certify that I have no relation by blood or
marriage to the parties involved in this case and that I am
not interested in the outcome of the same.

Signed on November 20, 2003, in San Juan, Puerto
Rico.

María L. Malavé

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3 CERTIFICATE OF NOTARY PUBLIC
45 I, Judith Torres de Jesús, Attorney at Law and
6 Notary Public, duly commissioned and qualified in and for the
7 Commonwealth of Puerto Rico, do hereby certify:8 That the foregoing deposition was taken on the
9 date heretofore mentioned; October 6, 2003.10 That the Court Reporter, the Deponent and the Court
11 Interpreter were sworn by me before the commencement of the
12 taking of the testimony.13 In witness whereof I sign the present and
14 affix my notarial seal in San Juan, Puerto Rico, on
15 , 200_.
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20 Judith Torres de Jesús, Esq.21 Notary Public
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ERRATA SHEET

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